

From: mdavid@musicanimation.com@inetgw
To: Microsoft ATR
Date: 11/20/01 9:37pm
Subject: My concerns

Defenders of Justice,

I have no doubt my associates who will also read this may feel the need to fear their careers as a result of my statements here, and since I will also be submitting this for their review, I intend to collect their comments and keep them ready in case they feel I am terribly out of line.

Nonetheless I will express my experience and my perception of these matters, for I see it's negative effect on their choices as much as on my own.

In my own experience over the last 15 years in the computing community I have witnessed a number of individuals decide not to enter into various markets, from desktop software to vertical applications such as film effects, simply because Microsoft threatened to enter into that market. I realize that the competition itself is not against anti-trust laws, but many who see the predatory practices simply do not bother to try, and thus, in my opinion, the market is denied great new ideas, and those who originate them are left with no compensation and no realistic way to exploit their own dream to their own benefit.

As a very small operator, offering customized support operations to creative professionals, I, like others, am in no position to defend my works from the exploitation. I fear, as I have for some time, that the practices of Microsoft are now so entrenched that it is nearly impossible to properly evaluate the extent of the damage. Those damaged have long ago faded away to lowly positions in IT or as private consultants, and have for more than 10 years now, elected not to compete.

We have not given up here at Silence, but as a small firm, we have to work harder to maintain our vision and pursue our dream, all the while fearing that when it is realized, we will be sued by Microsoft for infringing on a market that they will not bother to exploit until we have success with our product. We feel that to compete with Microsoft, we too, will have to give away a product concept we have worked most of our lives to develop. This fear and the realities of Microsoft's eventual intrusion, also affects the ability of the entrepreneur to secure financing. I am sure you will understand that if I sold out to Microsoft, I could get all the financing I want. Unfortunately I am not willing to roll over and deny my purpose in life.

I quote from a letter to us dated July 18th, 1994, where, when seeking

legal representation, the law firm we approached, Klarquist, Sparkman, Campbell, Leigh & Whinston (Portland, Oregon) told us in no uncertain terms, "...In the end, we decided we could not, in good faith, take on representation of your venture, due to a possible future conflict of interest with the work of Microsoft and SoftImage."

and

"...you revealed just enough of your technology for me to recognize a potential conflict. In particular, you noted that your technology involves generation of video effects base on an audio soundtrack."

Although Mr. Cornwell of the above mentioned firm who wrote the letter misrepresented the technology we were developing, we live in a climate today where few legal counselors and attorneys are even willing to take on the legal behemoth that this corporation has become. When I cannot even interest the law in protecting our ideas for money, the issue of monopoly power may be at play. At the very least, the definition of Monopoly Abuse, as the law currently stands, may be in need of review.

Standing as they are as the most infiltrated, unsecured and unreliable product line available for personal and business systems, (why doesn't the defense department run their servers and operating systems) they are hardly in a leadership role. We must remember that their position is not based on innovation but intimidation. Everything I have read about the trials shows that these things are true and proven. I do not understand why it takes our government longer to right wrongs than ever before. The Justice department seems more concerned about avoiding economic calamity. I suggest the downturn would not have been as severe for technology stocks had there been numerous operating system and internet browser alternatives.

Microsoft proposes a world in which I am increasingly uncomfortable, and our society becomes ever more enamored of Bill Gates skill at cheating the system and stealing his way to success. Few can prove it, but everyone seems to know it. We are proud that Bill Gates can cheat his way to the wealth level of a small nation unto himself. He has created nothing of value in my eyes, and I wonder why I remain unable to build my firm, and compete on an equal level. Why so many of my professional associates wish I could compete? because they understand and approve of my vision of technology. They are creative professionals, many of them. And they find our works supportive of their needs, and less trapping than the Fear, Uncertainty and Doubt that Microsoft has managed to engineer into every aspect of their product lines. Some of my customers remain upset that I am unable to set them up with a completely Microsoft Free system. If I cannot, and they cannot produce their works, I am out of business.

As regards remedy, I am certain that most will be pleased by the acts of

philanthropy that Microsoft will do, but it will do nothing to motivate the amazing engineers and programmers I have met to complete their dreams free of fear of reprisal and coercion. I have felt this coercion many times in my travels and meeting with computing professionals, all of whom have sadly concluded that competing with Microsoft in any market is a foregone failure.

Please do not reward their behavior.

M. David Acosta
Founder and Chief Technical Officer
Silence
103 Summit Ave.
Elmwood Park, NJ 07407
201 703-2966
(www.musicanimation.com)
Feel free to contact us on any of these matters, We are less afraid of Microsoft than most.